

REMARKS

In the Office Action dated April 4, 2007, claims 25-48 stand rejected under 35 U.S.C. §103(a) as being obvious over JP 58013358 ("JP'358") in view of U.S. Patent No.: 4,212,893 to Takashata ("Takashata"). The Examiner contends that JP'358 discloses all the elements of the claimed invention with the exception of homogenization. The Examiner then relies on Takashata for its disclosure of a milk beverage being prepared with the use of a stabilizer, an organic acid to lower pH and conventional homogenization. The Examiner also contends that the use of homogenization as taught by Takashata in the milk beverage of JP'358 would be obvious because homogenization is conventional in the milk beverage art.

In response, Applicants have amended claim 25 to recite that the milk proteins are casein and whey, which are milk proteins found animal milk. Support for milk proteins being casein and whey is found in the specification, *inter alia*, at page 5, next to last paragraph. No new matter is being added.

Applicants respectfully point out that JP'358 (the primary reference) is directed to an acidified soy milk beverage. Soy milk does not contain animal milk proteins such as casein or whey. In fact, soy milk is used as a milk-substitute for individuals who are severely allergic to caseins. As a result, the prior art combination of JP'358 and Takashata as applied by the Examiner teaches the preparation and homogenization of an acidic soy milk beverage and not Applicants' claimed acidic animal milk beverage that contains casein and whey. Withdrawal of the rejection is respectfully requested.

Applicants do not believe that any fees are due with this amendment other than the fee for a one extension of time. However, if any additional fees are due, please charge such sums to our Deposit Account 50-1145.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gerald Levy", is written over a horizontal line.

Gerald Levy
Reg. No. 24,419

Lindsay S. Adams
Reg. No. 36,425

Attorneys for Applicants

Day Pitney LLP
7 Times Square
New York, NY 10036-7311
(212) 297-5800